

AMENDED IN ASSEMBLY AUGUST 6, 1998

AMENDED IN SENATE APRIL 13, 1998

AMENDED IN SENATE MARCH 19, 1998

AMENDED IN SENATE MARCH 16, 1998

AMENDED IN SENATE MARCH 9, 1998

**SENATE BILL**

**No. 1480**

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**Introduced by Senator Kopp**

February 3, 1998

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An act to ~~add Section 1319.5 to~~ amend Section 980 of, and to add Section 1319.5 to, the Penal Code, relating to criminal procedure.

LEGISLATIVE COUNSEL'S DIGEST

SB 1480, as amended, Kopp. ~~Arrest:—release—on—own—recognizance~~ Criminal procedure.

(1) Existing law permits the clerk, whether a court is sitting or not, to issue a bench warrant to one or more counties at any time after the order for a bench warrant is made. Existing law also provides that the clerk, judge, or justice shall require the appropriate agency to enter a bench warrant issued on a private surety-bonded felony case into the national warrant system.

This bill would provide that if the appropriate agency fails to enter the bench warrant into the national warrant system, and the court finds that this failure prevented the surety or bail agent from surrendering the fugitive into custody,

*prevented the fugitive from being arrested or taken into custody, or resulted in the fugitive's subsequent release from custody, the court having jurisdiction over the bail shall, upon petition, set aside the forfeiture of the bond and declare all liability on the bail bond to be exonerated.*

(2) Existing law provides that the defendant shall not be released from custody under his or her own recognizance until the defendant files with the clerk of the court a signed release agreement which includes specified promises, agreements, and acknowledgments.

This bill would prohibit the release of any person on his or her own recognizance who is arrested for a new offense and who is currently on felony probation or felony parole or who has failed to appear in court as ordered, resulting in a warrant being issued, 3 or more times over the 3 years preceding the current arrest, and who is arrested for any felony offense or other specified crimes, until a hearing is held in open court before the magistrate or judge. By increasing the duties of court personnel, this bill would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. *The Legislature finds and declares that*  
 2 *Section 3 of this measure is not intended to in any way*  
 3 *abrogate the primary consideration of public safety in*



1 *determining whether a defendant should be released on*  
2 *his or her own recognizance.*

3 *SEC. 2. Section 980 of the Penal Code is amended to*  
4 *read:*

5 980. (a) At any time after the order for a bench  
6 warrant is made, whether the court is sitting or not, the  
7 clerk may issue a bench warrant to one or more counties.

8 (b) The clerk shall require the appropriate agency to  
9 enter each bench warrant issued on a private  
10 surety-bonded felony case into the national warrant  
11 system (National Crime Information Center (NCIC)). *If*  
12 *the appropriate agency fails to enter the bench warrant*  
13 *into the national warrant system (NCIC), and the court*  
14 *finds that this failure prevented the surety or bond agent*  
15 *from surrendering the fugitive into custody, prevented*  
16 *the fugitive from being arrested or taken into custody, or*  
17 *resulted in the fugitive's subsequent release from*  
18 *custody, the court having jurisdiction over the bail shall,*  
19 *upon petition, set aside the forfeiture of the bond and*  
20 *declare all liability on the bail bond to be exonerated.*

21 *SEC. 3. Section 1319.5 is added to the Penal Code, to*  
22 *read:*

23 1319.5. (a) No person described in subdivision (b)  
24 who is arrested for a new offense may be released on his  
25 or her own recognizance until a hearing is held in open  
26 court before the magistrate or judge.

27 (b) Subdivision (a) shall apply to *the following:*

28 (1) Any person who is currently on felony probation or  
29 felony parole.

30 (2) Any person who has failed to appear in court as  
31 ordered, resulting in a warrant being issued, three or  
32 more times over the three years preceding the current  
33 arrest, except for infractions arising from violations of the  
34 Vehicle Code, and who is arrested for any of the following  
35 offenses:

36 (A) Any felony offense.

37 (B) Any violation of the California Street Terrorism  
38 Enforcement and Prevention Act (Chapter 11  
39 (commencing with Section 186.20) of Title 7 of Part 1).



1 (C) Any violation of Chapter 9 (commencing with  
2 Section 240) of Title 8 of Part 1 (assault and battery).

3 (D) A violation of Section 484 (theft).

4 (E) A violation of Section 459 (burglary).

5 (F) Any offense in which the defendant is alleged to  
6 have been armed with or to have personally used a  
7 firearm.

8 ~~SEC. 2.~~

9 SEC. 4. Notwithstanding Section 17610 of the  
10 Government Code, if the Commission on State Mandates  
11 determines that this act contains costs mandated by the  
12 state, reimbursement to local agencies and school  
13 districts for those costs shall be made pursuant to Part 7  
14 (commencing with Section 17500) of Division 4 of Title  
15 2 of the Government Code. If the statewide cost of the  
16 claim for reimbursement does not exceed one million  
17 dollars (\$1,000,000), reimbursement shall be made from  
18 the State Mandates Claims Fund.

19 Notwithstanding Section 17580 of the Government  
20 Code, unless otherwise specified, the provisions of this act  
21 shall become operative on the same date that the act  
22 takes effect pursuant to the California Constitution.

